

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS, YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**NOVEMBER 4, 2009**  
**5:30 p.m.**

**CALL TO ORDER**

**Mayor Nelson** called the City Council meeting to order.

**INVOCATION/PLEDGE**

**Reed Lohrenz**, Central Church of Christ, gave the invocation. **Adriane Vasquez**, Information Technology Services, Help Desk Support Specialist, led the City Council in the pledge of allegiance.

**ROLL CALL**

Councilmembers Present: Shoop, Mendoza, Beeson, McClendon, Nicholls, Johnson and Mayor Nelson  
Councilmembers Absent: none  
Staffmembers Present: City Administrator, Mark S. Watson  
Assistant City Attorney, Richard Files  
Economic Development Program Manager, Pete Erlenbach  
Various Department Heads or their representative  
City Clerk, Brigitta M. Kuiper

**FINAL CALL**

**Mayor Nelson** made a final call for the submission of Speaker Request Forms from members of the audience.

**PRESENTATIONS**

**Watson** presented the Parks and Recreation Department with a Workplace Excellence Award, awarded to the City by *The Yuma Sun*.

**Watson** presented members of the Strategic Communications Division with the Western Access Video Excellence (WAVE) Award for excellence in Municipal Government Access, awarded to the City by the Alliance for Media Communications for the City's half-hour weekly *City News* program.

**Watson** recognized Greg Wilkinson, Assistant Information Technology Services Director for Telecommunications, who played a key role in working with local police and fire departments on the Public Safety Radio Communication System project. The project has been given the Most Effective Municipal Security Program, Project or Agency Head award by Government Security News; the contest was international in scope.

**Colin Soako**, on behalf of the Cocopah Indian Nation, presented Mayor Nelson with a signed map of the Cocopah reservation in appreciation for his recognition of the tribe as part of the community. This award is the first ever given by the Cocopah's to an individual outside the tribe.

**COMMUNICATIONS / FACTUAL RESPONSES - none**

**I. CALL TO THE PUBLIC**

**Mary Ann Easterday**, 3359 S. 15<sup>th</sup> Avenue, updated the City Council on the significant amount of refuse received at the last Household Hazardous waste collection day, thanking the community for its participation. The City's recycling sites are being misused by people dropping off non-recyclable materials; anyone with information should report it to the City.

**Jack Kretzer**, 761 W. Queens Place, stated the Infrastructure and Services Reports for the upcoming annexations do not meet the requirements of the Arizona Revised Statutes.

**Marlene Witherwax**, 1860 W. Camino Soledad, President of Casa Manana homeowners' association, thanked the City for beginning the upgrading of infrastructure in Casa Manana; street lights will add a much-needed safety factor. The City's Real Property Agent and Engineering staffmember will be attending their next homeowners' association meeting; interested City Councilmembers are also invited.

**Shereen Khan-Guinn**, 560 E. Palo Verde, stated that the minutes of the Regular City Council Meeting of September 16, 2009 still do not accurately reflect her statements; the FBI confirmed her suspicions with regard to one individual. Thereafter, a number of employees of the bank were fired. She explained various illegal situations she and her husband have suffered subsequent to her whistle blowing.

**Susan Fuquay**, 9474 E. Ranch Drive, stated the notice of the annexation of 9½ E and 32<sup>nd</sup> Street was misleading because it did not specify that it included the Del Sur Subdivision and Bonita Mesa Recreational Vehicle Park; therefore, the two annexations should be stricken from the agenda. In addition, the Durable Special Powers of Attorney are not valid because they are 13 years old; some of the signers have died, moved and/or signed more than one petition; the City has only approximately 50 valid signatures. **Files:** Powers of Attorney (POA) are used in a variety of situations. The City feels these POA's are valid, allowing for the City Clerk to sign the petitions. **Fuquay** disagreed; a POA becomes invalid if the signer dies. Further, they do not show up on title searches. **Files:** Generally, a POA is valid until it's revoked. Several of the Del Sur/Bonita Mesa POA's were revoked, and, therefore, no petitions were signed on their behalf.

**II. MOTION CONSENT AGENDA**

**Motion** (Mendoza/Beeson): To adopt the Motion Consent Agenda as recommended, with the exception of Item B.7 which was removed by McClendon for separate consideration. Voice vote: **approved 7-0.**

A. Approval of minutes of the following City Council meetings:

Regular Worksession	September 15, 2009
Regular Council Meeting	September 16, 2009
Special Worksession	October 6, 2009

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (Attny)
2. Award to the lowest responsive/responsible bidder for Main Street Water Treatment Plant Upgrades, Chlorine Scrubber Improvements & Sedimentation Basins 3 & 4 Refurbishment, at a total cost of \$793,320.00 to RK Sanders, Phoenix, Arizona. (Bid #2010000156) (Eng)
3. Authorize execution of an Intergovernmental Agreement with Yuma Union High School District No. 70 for the 2009-2010 School Safety Program for the period of one year. (Police/Patrol)
4. Authorize execution of an Intergovernmental Agreement with Crane School District No. 13 for the 2009-2010 School Safety Program for the period of one year. (Police/Patrol)
5. Authorize the City Administrator to execute the Award Agreement between the Arizona Attorney General and the City of Yuma for the Victims' Rights Program, in the amount of \$4,600.00 for the Fiscal Year 2009-2010. (Attny/Prosecutor)
6. Approve the time extension for the final plat of the Triple S Industrial Park Subdivision, Unit #2. The property is located at the southeast corner of Arizona Avenue and 36th Street. The applicant is Dahl, Robins, and Associates, on behalf of YLI, LLC. (S2005-017-01TE) (DCD/Planning)
7. Removed for separate consideration; see below.
8. Approve an Infrastructure and Services Report for Annexation Area No. A2009-06, an annexation area of approximately 69 acres of territory located at the southeast corner of Gila Ridge Road and Avenue 3E. (Admin/EcDev)
9. Approve an Infrastructure and Services Report for Annexation Area No. A2009-12, an annexation area of approximately 63.4 acres of territory located at the southeast corner of County 17 1/2 Street and Avenue 1 1/2E. (Admin/EcDev)
10. Approve an Infrastructure and Services Report for Annexation Area No. A2009-13, an annexation area of approximately 109.9 acres of territory located on the East Mesa south of 32nd Street at Avenue 9E. (Admin/EcDev)

**Motion Consent Agenda Item Removed for Separate Consideration**

- B.7. Approve an Infrastructure and Services Report for Annexation Area No. A2009-03, an annexation area of approximately 128.7 acres of territory that includes a residential mobile home subdivision and a commercial RV park located in the vicinity of Avenue 9½ E and 32nd Street. (Admin/EcDev)

**McClendon** asked for a briefing on this item or a delay in light of the comments made at the Call to the Public concerning the legality of the Infrastructure and Services Reports and the POA's and valid petitions signatures. **Watson** stated that the City provided Del Sur with water services and, in return, the property owners agreed to sign preannexation agreements, which included the Durable Special Powers of Attorney for annexation.

**Erlenbach:** In 1998, the subdivision was experiencing problems with its water system and water quality. In response to the situation, Yuma County obtained a USDA grant to offset the costs of bringing City water to the neighborhood. Under the terms of the USDA grant agreement, the City couldn't annex the property for three years. As a result, the City entered into a Preannexation Agreement for the area with the Durable Special Powers of Attorney acting as individual agreements. At that time, 65% of the property owners signed the Durable Special Powers of Attorney and, thereafter, the City put the agreements aside until annexation was feasible. Given that next year is a census year, staff felt it appropriate to move forward with the annexation. A number of POA's were revoked, bringing the approval percentage down; therefore, staff prepared several mailings and walked the area door-to-door to obtain more signatures. The City now holds signed petitions for more than 51% of property owners. **McClendon** asked for clarification: the subdivision is currently on City water as a result of agreeing to sign the POA's. **Erlenbach:** Yes.

**Johnson** outlined the following concerning the Del Sur Subdivision:

- Built well over 35 years ago under Yuma County jurisdiction.
- Private water system provided through an Improvement District.
- Waterlines were substandard and could not support fire hydrants.
- Water was supplied by well with a storage tank located at the southern end of the subdivision.
- As a result of continuing problems, Yuma County first contracted management of the system out to various firms; however, because of the substandard quality of the system, this failed as well.
- The City, at its own expense, installed a large water line to and fire hydrant in Del Sur for use by Rural Metro for fire protection.
- The subdivision was literally out of water; their water quality was unsafe and the well failed.
- Residents of the subdivision requested City water and signed Preannexation Development Agreements, including the Durable Special Powers of Attorney, which run with the land in perpetuity; thus, agreeing to annex.
- Yuma County sought and obtained a federal Colonia grant to rebuild the needed water infrastructure.
  - A Colonia grant is not available for property within a municipality; if the property annexes within three years of receiving the grant, it must be paid back. Therefore, the City had to wait three years.

- A substantial majority of the residents at the time wanted good water and agreed to annex. The water system was rebuilt connecting them to the City.
- Del Sur should uphold its end of the deal.

**Erlenbach** added that because of the installed water system, Del Sur received fire hydrants along the length of its eastern boundary, reducing fire insurance costs to the residents. **Watson:** The City looked to annex this property about two years to take in this entire County island to 32<sup>nd</sup> Street. Numerous homeowners of ranchettes in the larger area objected; the City respected their wishes and withdrew. This effort involves only those areas that have already given their permission to annex; no additional areas are being leveraged.

**Fuquay** noted several discrepancies:

- The name of this annexation is stated as 9½E and 32<sup>nd</sup> Street.
  - This wording doesn't give proper notice that the annexation involves Del Sur and Bonita Mesa RV Park.
  - It isn't consistent with prior notifications.
  - Lack of proper notification resulted in an annexation being found invalid.
- There is no 9½ E street at this time.
- At least 15 prior owners who signed the POA's have died prior to the filing of these petitions on October 11, 2009.
- The title company stated POA's do not run with the land unless it bears the parcel number.
  - Many of the POA's have legal descriptions that are not valid.
  - Some are not even notarized.
  - Some are notarized by a family member.
- The POA's, if valid, are only valid for two years; most were signed in 1997.
- Only one signature for annexation can be used, no matter how many properties a person owns.

**Files** responded: The Arizona Municipal Court held that a zoning ordinance of Maricopa County was invalid because no notification at all was given. Again, POA's are valid until revoked.

**Johnson** discussed with **Fuquay** whether she would be willing to give up City water service and not be annexed. **Fuquay** stated she has to buy bottled water anyway because the City water doesn't taste good. Would the City disconnect water to her other properties that aren't in the City and are not a part of this annexation?

**Carolyn Knowlton** attempted to speak; **Kuiper** indicated she was signed up to speak to the Del Sur annexation ordinance, occurring later on the agenda.

**Watson** drew the City Council's attention to the annexation map, noting that the map adequately shows the property involved.

**Shoop:** Only two people out of the subdivision are present tonight to object. **Erlenbach:** In 1998, 65% of the property owners signed POA's. A number were revoked, taking the percentage down to 49%; after additional effort by staff, the number of signatures has risen to 56%.

**Motion** (Shoop/Johnson): To approve Motion Consent Agenda as Item B.7, Infrastructure and Services Report for Annexation Area A2009-03.

**Beeson** asked for specific clarification. **Files:** Avenue 9½ E is a satisfactory name. A POA can run with the property; however, he would have to research the matter of a death.

Roll call vote: **approved** 6-1; McClendon voting nay.

**III. RESOLUTION CONSENT AGENDA— none**

**IV. ADOPTION OF ORDINANCES CONSENT AGENDA**

**Kuiper** displayed the following title:

**Ordinance O2009-63**

**An ordinance of the City Council of the City of Yuma, Arizona, declaring a certain parcel of real property, hereinafter described, surplus for use by the City and authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma by exchange for said City-owned property and authorizing the acquisition of certain parcels, hereinafter described, by gift, purchase or by eminent domain, for the reason that such property to be acquired is required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment of all costs necessary for the acquisition, exchange and acquisition of said parcels of real property (Exchange and acquisition of real property: 16<sup>th</sup> Street and Avenue A improvements; CIP 5.9701) (Attny)**

**Motion** (Johnson/Beeson): To adopt the Ordinance Consent Agenda as recommended. Roll call vote: **adopted** 7-0.

**V. INTRODUCTION OF ORDINANCES**

**Kuiper** displayed the following titles:

**Ordinance O2009-65**

**An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City portions of Section 36, Township 8 South, Range 23 West and Section 1, Township 9 South, Range 23 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, and amending Chapter 154 of the Yuma City Code, as amended, designating the zoning of certain property to the Light Industrial District, and amending the zoning map to conform thereto, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto**  
(Annexation Area A2009-06: Gila Ridge Road and Avenue 3E) (Admin/EcDev)

**Ordinance O2009-66**

**An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City a portion of Section 10, Township 10 South, Range 23 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto**  
(Annexation Area A2009-12: County 17½ Street and Avenue 1½E) (Admin/EcDev)

**Introduction of Ordinances Items Removed for Separate Consideration**

**Ordinance O2009-64: Annexation Area No. A2009-03** - Authorize annexation and designation of zoning of unincorporated territory located in the vicinity of Avenue 9½ E and 32nd Street. (City Administration/Economic Development)

**Speakers**

**Diane Ewing**, 9383 E. Corral Street, stated there has been little clarity or truth on this annexation. Nothing on her deed speaks to a City Preannexation Development Agreement for annexation; she would not have intentionally moved out of the City had she known annexation was coming. The documents are 12 years old; she owns the property now. Her neighbors have told her they paid substantial sums to get City water out there. The next development over didn't pay for their water like Del Sur did. If Del Sur is annexed, it will have to pay for building a fire station, sewer hookups, sidewalks and any improvements the City deems necessary; the residents can't afford that.

**Carolyn Knowlton**, 9345 Wagon Wheel Drive, stated that she had reviewed the annexation petitions the City has on file for Del Sur Estates and less than 50 are valid. She hired an attorney for the last attempt and residents will band together and hire a lawyer this time to fight the annexation, if necessary.

**Shoop** asked if those opposing the annexation benefited from the Colonia grant? **Erlenbach**: The Colonia grant was received in 1998. If they purchased property subsequent to that time, the previous property owner would have had to pay off the assessment at the time of the sale. All of the residents are secondary beneficiaries of the improvements provided for by the grant.

**Knowlton** stated that the residents pay a 30% surcharge every month for their water; they receive no discount. **Mayor Nelson** stated residents of other County islands that receive City water who also pay the surcharge.

**Motion** (Shoop/Johnson): To introduce Ordinance O2009-64, Annexation Area A2009-03.

**Nicholls** asked if the 30% surcharge would be dropped upon annexation. **Mayor Nelson**: Yes.

**Mendoza** asked that the City Attorney's Office research the POA issue before the next Regular City Council meeting. **Files**: Legal advice would be more appropriately discussed in an executive session; however, the research will be done by then. **Mendoza** noted that, in a realtor's effort to sell a home, information could be left out. Clarification would be helpful for the City Councilmembers.

Roll call vote: **adopted** 7-0.

**Kuiper** displayed the following title:

**Ordinance O2009-64**

**An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City portions of Section 1 and Section 12 of Township 9 South, Range 22 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, amending Chapter 154 of the Yuma City Code, as amended, designating the zoning of certain property to the Low Density Residential, Suburban Ranch, and Mobile Home Park Districts, and amending the zoning map to conform thereto, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto**

(Annexation Area A2009-03: Avenue 9 ½ E and 32<sup>nd</sup> Street) (Admin/EcDev)

**McClendon** clarified that the introduction of an ordinance presents an opportunity to begin discussions, as a first step in the process. Changes could still be made. **Mayor Nelson:** Revising the ordinance would require its re-introduction, which would start the two-meeting process over.

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**Ordinance O2009-67: Annexation Area No. A2009-13** – Authorize annexation and designation of zoning of unincorporated territory located on the East Mesa south of 32<sup>nd</sup> Street at Avenue 9E. (City Administration/ Economic Development)

Speakers

**Jack Kretzer**, 761 W. Queens Place: Is the City attempting to box people by connecting to Avenue 9E; this annexation is really two in one. The City is required to plan for infrastructure in an annexation; the related Infrastructure and Services Report says nothing. Where is the money coming from? Water plants and sewer plants are being subsidized by the citizens of Yuma because impact fees were set at 60% of the costs. The City is violating State Statutes in this annexation.

**Motion** (Shoop/Mendoza): To introduce Ordinance O2009-67, Annexation Area A2009-13.

Voice vote: **adopted** 7-0.

**Kuiper** displayed the following title:

**Ordinance O2009-67**

**An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City portions of Sections 11, 12, and 14 of Township 9 South, Range 22 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, amending Chapter 154 of the Yuma City Code, as amended, designating the zoning of certain property to the Low Density Residential and General Commercial Districts, and amending the zoning map to conform thereto, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto**

(Annexation Area A2009-13: East Mesa at Avenue 9E) (Admin/EcDev)

**VI. PUBLIC HEARINGS** – none



**VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING - none**

**VIII. SUMMARY OF CURRENT EVENTS**

**Watson** stated that the U.S. Marine Corps sent a letter to the City thanking it for the opportunity to conduct the Marine Aviation Weapons and Tactics Squadron – One training exercise that occurred last weekend. He passed along that thanks to City staff who assisted them during the exercise.

**IX. EXECUTIVE SESSION/ADJOURNMENT**

**Motion** (Beeson/Nicholls): To adjourn the meeting. Voice vote: **adopted** 7-0. The meeting adjourned at 7:03 p.m. No Executive Session was held.

  
Brigitta M. Kuiper, City Clerk

APPROVED:

  
Lawrence K. Nelson, Mayor

